

these functions are underfunded, fragmented, and in need of high-level support.

The U.S. government's current response to threats from vulnerable conventional weapons stockpiles is dispersed between several programs at the Department of State. We believe that the planning, coordination, and implementation of this function should be consolidated into one office at the State Department with a budget that is commensurate with the threat posed by these weapons.

We are particularly concerned that our government has the capacity to deal quickly with vulnerable stockpiles of shoulder-fired anti-aircraft missiles, known as MANPADS. In recent years, concerns have grown that such weapons could be used by terrorists to attack commercial airliners, military installations, and government facilities here at home and abroad. Al Qaeda reportedly has attempted to acquire MANPADS on a number of occasions.

The Lugar-Obama bill recognizes that the proliferation of conventional weapons is a major obstacle to peace, reconstruction, and economic development in regions suffering from conflict and instability. It calls upon the State Department to implement a global effort to seek out and destroy surplus and unguarded stocks of conventional armaments and to cooperate with allies and international organizations when possible.

In Ukraine, we saw stacks of thousands of mortars, anti-personnel landmines, and other weapons, left over from the Soviet era. The scene there is similar to situations in other states of the former Soviet Union, Africa, Latin America, and Asia. I have also witnessed these threats firsthand in Albania and Georgia, where those governments have requested assistance in eliminating MANPADS, tactical missile systems, and millions of tons of ammunition and weapons.

In many cases, the security around these weapons is minimal—particularly when the weapons are no longer being used by a nation's military. But as we have seen in Iraq, even obsolete weaponry and explosives can be reconfigured with deadly results. If foreign governments know that the United States is poised to help them eliminate such weapons, they will be more likely to come forward with requests for help, as Albania and Georgia did.

Inevitably, some countries will decline our assistance, and their stockpiles will remain unsecured. But this is not a reason to fail to secure the stockpiles that are opened to us. Every stockpile represents a theft opportunity for terrorists and a temptation for security personnel who might seek to profit by selling weapons on the black market. The more stockpiles that can be safeguarded or eliminated, the safer we will be. We do not want the question posed the day after an attack on an American military base, embassy compound, or commercial plane why we didn't take these threats seriously.

Two years ago the Department of Energy combined several nonproliferation programs into the Global Threat Reduction Initiative (GTRI) charged with identifying, securing, and disposing of vulnerable nuclear materials and equipment around the world. We used GTRI as a blueprint for the organizational and programmatic structure needed in the conventional arms elimination arena. By merging activities in a single office at the State Department and making it the lead Federal agency in efforts to eliminate non-strategic missile systems, MANPADS, and all small arms, we will raise the profile and value of this important work.

The second part of the Lugar-Obama legislation is focused on U.S. efforts to assist allies in detecting and interdicting weapons of mass destruction. The Nunn-Lugar Program is our country's first line of defense against

the threat posed by weapons and materials of mass destruction. It attempts to secure weapons of mass destruction at their source. The Department of Homeland Security is our last line of defense, focused on detecting these threats inside U.S. borders and responding to attacks, if they occur. Our bill would bolster the second line of defense, namely, our ability to stop weapons of mass destruction that have been taken from the source, but have not yet reached the United States.

To strengthen the second line of defense, we believe that we must improve the capabilities of other nations. The United States military and intelligence services cannot be everywhere. We need the cooperation and vigilance of like-minded nations to detect and interdict WMD threats. The United States has constructed the Proliferation Security Initiative, which enlisted the participation of other nations in the interdiction of WMD. PSI is an excellent step forward in our communications with foreign governments on WMD interdiction. But what is lacking is a coordinated effort to improve the capabilities of our foreign partners so that they can play a larger detection and interdiction role.

The Lugar-Obama bill creates a single office dedicated to supporting the detection and interdiction of WMD. The State Department engages in several related anti-terrorism and export control assistance programs to foreign countries. But these programs are focused on other stages of the threat, not on the detection and interdiction of WMD cargo. Thus, we believe there is a gap in our defenses that needs to be filled.

The Lugar-Obama bill earmarks 25 percent of the Nonproliferation, Anti-terrorism, Demining, and Related Programs account to address the shortcomings in the State Department's response. This would have amounted to \$110 million this year. Our bill goes one step further by calling on the State Department to also commit 25 percent of annual foreign military financing amounts to nations for the purchase of equipment to improve their ability to detect and interdict WMD. This would represent a potent but flexible tool that could help build a network of WMD detection and interdiction capabilities world wide.

Senator Obama and I give the State Department the flexibility to determine how these funds should be used. This is because a "one-size-fits-all" approach does not work with FMF funds. Some recipients of U.S. security assistance, such as Israel, already are capable of detecting and interdicting WMD. Other potential recipients are unable to utilize effectively such detection and interdiction assistance because they lack the basic military structures to employ it. We require the Administration to outline for Congress the rationale behind the decision not to invoke the 25 percent requirement clause. Through this reporting requirement, we are seeking to ensure that Congress remains an active participant in important decisions on foreign military financing.

I am confident that the ongoing reorganization of the arms control and non-proliferation bureaus, under the direction of Under Secretary Bob Joseph, provides us with an excellent opportunity to reshape, refocus and reinvigorate the State Department's non-proliferation mission. The Lugar-Obama legislation is intended to assist in the transformation of the Department's efforts.

The U.S. response to conventional weapons threats and the lack of focus on WMD detection and interdiction assistance must be rectified if we are to provide a full and complete defense for the American people. We look forward to working closely with the Administration on these proposals and will benefit from their recommendations on ways to per-

fect our legislation. The Lugar-Obama bill is a critical step forward in improving our ability to protect the United States and its citizens.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 2347. Mr. GREGG (for Mr. FRIST (for himself and Mr. GREGG)) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

SA 2348. Mr. SCHUMER (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2349. Mr. SCHUMER (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2350. Mrs. MURRAY (for herself and Mr. DEWINE) submitted an amendment intended to be proposed by her to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2351. Mr. CONRAD (for himself, Mr. NELSON, of Florida, Mr. FEINGOLD, Mr. OBAMA, Mrs. FEINSTEIN, Mr. SALAZAR, and Mr. HARKIN) proposed an amendment to the bill S. 1932, supra.

SA 2352. Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Ms. LANDRIEU, Mr. COCHRAN, Mr. LOTT, and Mrs. HUTCHISON) proposed an amendment to the bill S. 1932, supra.

SA 2353. Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2354. Mr. NELSON, of Florida (for himself, Ms. STABENOW, Mr. HARKIN, Mrs. CLINTON, Ms. MIKULSKI, Mrs. MURRAY, Mr. KOHL, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2355. Mr. INHOFE (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1932, supra.

SA 2356. Mrs. LINCOLN (for herself, Ms. LANDRIEU, Mr. BAUCUS, Mr. PRYOR, and Mr. KENNEDY) proposed an amendment to the bill S. 1932, supra.

SA 2357. Mr. NELSON, of Florida (for himself, Mr. KERRY, Ms. CANTWELL, Mrs. MURRAY, Mr. REID, and Mr. KENNEDY) proposed an amendment to the bill S. 1932, supra.

## TEXT OF AMENDMENTS

**SA 2347.** Mr. GREGG (for Mr. FRIST (for himself and Mr. GREGG)) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows;

At the appropriate place, insert the following:

### SEC. \_\_\_\_ ASSISTANCE TO COMBAT INFLUENZA AND NEWLY EMERGING PANDEMICS.

(a) IN GENERAL.—Out of any money in the Treasury of the United States not otherwise appropriated in title VII, there are appropriated \$2,780,000,000 to enable the Secretary of Health and Human Services to carry out the activities described in subsection (c).

(b) ADDITIONAL AMOUNTS.—Out of any money in the Treasury of the United States not otherwise appropriated in title III, there are appropriated \$1,174,000,000 to enable the

Secretary of Health and Human Services to carry out the activities described in subsection (c).

(c) **ACTIVITIES.**—From amounts appropriated under subsections (a) and (b), the Secretary of Health and Human Services shall utilize—

(1) \$577,000,000 to intensify surveillance of influenza and other newly emerging pandemics and outbreaks;

(2) \$2,800,000,000 for the development and stockpiling of antivirals and vaccines for influenza and other newly emerging pandemics; and

(3) \$577,000,000 to establish a seamless network of Federal, State, and local authorities for preparedness relating to influenza and other newly emerging pandemics.

**SA 2348.** Mr. SCHUMER (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows;

On page 125, strike lines 3 through 14.

**SA 2349.** Mr. SCHUMER (for himself and Mr. ROCKEFELLER) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows;

On page 125, strike lines 3 through 14 and insert the following:

(b) **EXTENSION OF REBATES TO MEDICAID MANAGED CARE ORGANIZATIONS.**—

(1) **IN GENERAL.**—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(A) in clause (xi), by striking “and” at the end;

(B) in clause (xii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(xiii) such contract provides that payment for covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity shall be subject to the same rebate agreement entered into under section 1927 as the State is subject to.”

(2) **CONFORMING AMENDMENT.**—Section 1927(j)(1) (42 U.S.C. 1396r-8(j)(1)) is amended by inserting “other than for purposes of collection of rebates for the dispensing of such drugs in accordance with the provisions of a contract under section 1903(m) that meets the requirements of paragraph (2)(A)(xiii) of that section” before the period.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r-8) on or after such date.

**SA 2350.** Mrs. MURRAY (for herself and Mr. DEWINE) submitted an amendment intended to be proposed to that bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows;

On page 647, between lines 11 and 12, insert the following:

(3) in subsection (d)—

(A) in paragraph (2), by striking “is an orphan or ward of the court” and inserting “is an orphan, in foster care, or ward of the court or was in foster care”;

(B) in paragraph (6), by striking “or” after the semicolon;

(C) by redesignating paragraph (7) as paragraph (8); and

(D) by inserting after paragraph (6) the following:

“(7) has been verified as both a homeless child or youth and an unaccompanied youth, as such terms are defined in section 725 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a), during the school year in which the application for financial assistance is submitted, by—

“(A) a local educational agency liaison for homeless children and youths, as designated under section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii));

“(B) a director of a homeless shelter, transitional shelter, or independent living program; or

“(C) a financial aid administrator; or”.

**SA 2351.** Mr. CONRAD (for himself, Mr. NELSON of Florida, Mr. FEINGOLD, Mr. OBAMA, Mrs. FEINSTEIN, Mr. SALAZAR, and Mr. HARKIN) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows;

At the end of title VI, insert the following:

**SEC. \_\_\_\_ PAY-AS-YOU-GO POINT OF ORDER IN THE SENATE.**

(a) **POINT OF ORDER.**—

(1) **IN GENERAL.**—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the on-budget deficit or cause an on-budget deficit for any 1 of the 3 applicable time periods as measured in paragraphs (5) and (6).

(2) **APPLICABLE TIME PERIODS.**—For purposes of this subsection, the term “applicable time period” means any 1 of the 3 following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first 5 fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the 5 fiscal years following the first 5 fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) **DIRECT-SPENDING LEGISLATION.**—For purposes of this subsection and except as provided in paragraph (4), the term “direct-spending legislation” means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by, and interpreted for purposes of, the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) **EXCLUSION.**—For purposes of this subsection, the terms “direct-spending legislation” and “revenue legislation” do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) **BASELINE.**—Estimates prepared pursuant to this section shall—

(A) use the baseline surplus or deficit used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257

of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) **PRIOR SURPLUS.**—If direct spending or revenue legislation increases the on-budget deficit or causes an on-budget deficit when taken individually, it must also increase the on-budget deficit or cause an on-budget deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that direct spending or revenue effects resulting in net deficit reduction enacted pursuant to reconciliation instructions since the beginning of that same calendar year shall not be available.

(b) **WAIVER.**—This section may be waived or suspended in the Senate only by the affirmative vote of  $\frac{2}{3}$  of the Members, duly chosen and sworn.

(c) **APPEALS.**—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of  $\frac{2}{3}$  of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(d) **DETERMINATION OF BUDGET LEVELS.**—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(e) **SUNSET.**—This section shall expire on September 30, 2010.

**SA 2352.** Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Ms. LANDRIEU, Mr. COCHRAN, Mr. LOTT, and Mrs. HUTCHISON) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows;

At the end of title VII, insert the following:

**Subtitle D—Hurricane Relief**

**SEC. 7951. FINDINGS.**

Congress finds the following:

(1) Hurricane Katrina has had a devastating and unprecedented impact on students who attended schools in the disaster areas.

(2) Due to the devastating effects of Hurricane Katrina, a significant number of students have enrolled in schools outside of the area in which they resided on August 22, 2005, including a significant number of students who enrolled in non-public schools because their parents chose to enroll them in such schools.

(3) 372,000 students were displaced by Hurricane Katrina. Approximately 700 schools have been damaged or destroyed. Nine States each have more than 1,000 of such displaced students enrolled in their schools. In Texas alone, over 45,000 displaced students have enrolled in schools.

(4) In response to these extraordinary conditions, this subtitle creates a one-time only emergency grant for the 2005-2006 school year tailored to the needs and particular circumstances of students displaced by Hurricane Katrina.

**SEC. 7952. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.**

(a) **PURPOSE.**—It is the purpose of this section—

(1) to provide immediate and direct assistance to local educational agencies in Louisiana, Mississippi, and Alabama that serve an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina;

(2) to assist school district administrators and personnel of such agencies who are working to restart operations in elementary schools and secondary schools served by such agencies; and

(3) to facilitate the re-opening of elementary schools and secondary schools served by such agencies and the re-enrollment of students in such schools as soon as possible.

(b) **PAYMENTS AND GRANTS AUTHORIZED.**—From amounts appropriated to carry out this subtitle, the Secretary of Education is authorized to make payments, not later than November 30, 2005, to State educational agencies (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801 et seq.)) in Louisiana, Mississippi, and Alabama to enable such agencies to award grants to local educational agencies serving an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(c) **ELIGIBILITY AND CONSIDERATION.**—In determining whether to award a grant under this section, or the amount of the grant, the State educational agency shall consider the following:

(1) The number of school-aged children served by the local educational agency in the academic year preceding the academic year for which the grant is awarded.

(2) The severity of the impact of Hurricane Katrina on the local educational agency and the extent of the needs in each local educational agency in Louisiana, Mississippi, and Alabama that is in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(d) **APPLICATIONS.**—Each local educational agency desiring a grant under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require to ensure expedited and timely payment to the local educational agency.

(e) **USES OF FUNDS.**—

(1) **IN GENERAL.**—A local educational agency receiving a grant under this section shall use the grant funds for—

(A) recovery of student and personnel data, and other electronic information;

(B) replacement of school district information systems, including hardware and software;

(C) financial operations;

(D) reasonable transportation costs;

(E) rental of mobile educational units and leasing of neutral sites or spaces;

(F) initial replacement of instructional materials and equipment, including textbooks;

(G) redeveloping instructional plans, including curriculum development;

(H) initiating and maintaining education and support services; and

(I) such other activities related to the purpose of this section that are approved by the Secretary.

(2) **USE WITH OTHER AVAILABLE FUNDS.**—A local educational agency receiving a grant under this section may use the grant funds in coordination with other Federal, State, or local funds available for the activities described in paragraph (1).

(3) **PROHIBITIONS.**—Grant funds received under this section shall not be used for any of the following:

(A) Construction or major renovation of schools.

(B) Payments to school administrators or teachers who are not actively engaged in re-starting or re-opening schools.

(f) **SUPPLEMENT NOT SUPPLANT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), funds made available under this section shall be used to supplement, not supplant, any funds made available through the Federal Emergency Management Agency or through a State.

(2) **EXCEPTION.**—Paragraph (1) shall not prohibit the provision of Federal assistance under this section to an eligible educational agency that is or may be entitled to receive, from another source, benefits for the same purposes as under this section if—

(A) such agency has not received such other benefits by the time of application for Federal assistance under this section; and

(B) such agency agrees to repay all duplicative Federal assistance received to carry out the purposes of this section.

#### **SEC. 7953. HOLD HARMLESS FOR LOCAL EDUCATIONAL AGENCIES SERVING MAJOR DISASTER AREAS.**

In the case of a local educational agency that serves an area in which the President has declared that a major disaster exists in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina, the amount made available for such local educational agency under each of sections 1124, 1124A, 1125, and 1125A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year 2006 shall be not less than the amount made available for such local educational agency under each of such sections for fiscal year 2005.

#### **SEC. 7954. TEACHER AND PARAPROFESSIONAL RECIPROCITY; DELAY.**

(a) **TEACHER AND PARAPROFESSIONAL RECIPROCITY.**—

(1) **TEACHERS.**—

(A) **AFFECTED TEACHER.**—In this subsection, the term “affected teacher” means a teacher who is displaced due to Hurricane Katrina and relocates to a State that is different from the State in which such teacher resided on August 22, 2005.

(B) **IN GENERAL.**—A local educational agency may consider an affected teacher hired by such agency who is not highly qualified in the State in which such agency is located to be highly qualified, for purposes of section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319) and section 612(a)(14) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)), for a period not to exceed 1 year, if such teacher was highly qualified, consistent with section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)) and section 602(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(10)), on or before August 22, 2005, in the State in which such teacher resided on August 22, 2005.

(2) **PARAPROFESSIONAL.**—

(A) **AFFECTED PARAPROFESSIONAL.**—In this subsection, the term “affected paraprofessional” means a paraprofessional who is displaced due to Hurricane Katrina and relocates to a State that is different from the State in which such paraprofessional resided on August 22, 2005.

(B) **IN GENERAL.**—A local educational agency may consider an affected paraprofessional hired by such agency who does not satisfy the requirements of section 1119(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(c)) in the State in which

such agency is located to satisfy such requirements, for purposes of such section, for a period not to exceed 1 year, if such paraprofessional satisfied such requirements on or before August 22, 2005, in the State in which such paraprofessional resided on August 22, 2005.

(b) **DELAY.**—The Secretary of Education may delay, for a period not to exceed 1 year, applicability of the requirements of paragraphs (2) and (3) of section 1119(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(a)(2) and (3)) and section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)) with respect to the States of Alabama, Louisiana, and Mississippi (and local educational agencies within the jurisdiction of such States), if any such State or local educational agency demonstrates that a failure to comply with such requirements is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of local educational agencies within the State.

#### **SEC. 7955. ASSISTANCE FOR HOMELESS YOUTH.**

(a) **IN GENERAL.**—The Secretary of Education shall provide assistance to local educational agencies serving homeless children and youths displaced by Hurricane Katrina, consistent with section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433), including identification, enrollment assistance, assessment and school placement assistance, transportation, coordination of school services, supplies, referrals for health, mental health, and other needs.

(b) **EXCEPTION AND DISTRIBUTION OF FUNDS.**—

(1) **EXCEPTION.**—For purposes of providing assistance under subsection (a), subsections (c) and (e)(1) of section 722 and subsections (b) and (c) of section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b) and (c)) shall not apply.

(2) **DISBURSEMENT.**—The Secretary of Education shall disburse funding provided under subsection (a) to State educational agencies based on demonstrated need, as determined by the Secretary, and such State educational agencies shall distribute funds, that are appropriated under section 7958 and available to carry out this section, to local educational agencies based on demonstrated need, for the purposes of carrying out section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433).

#### **SEC. 7956. TEMPORARY EMERGENCY IMPACT AID FOR DISPLACED STUDENTS.**

(a) **TEMPORARY EMERGENCY IMPACT AID AUTHORIZED.**—

(1) **AID TO STATE EDUCATIONAL AGENCIES.**—From amounts appropriated under this subtitle, the Secretary of Education shall provide emergency impact aid to State educational agencies to enable the State educational agencies to make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools to enable—

(A) such eligible local educational agencies and schools to provide for the instruction of displaced students served by such agencies and schools; and

(B) such eligible local educational agencies to make immediate impact aid payments to accounts established on behalf of displaced students (referred to in this section as “accounts”) who are attending eligible non-public schools located in the areas served by the eligible local educational agencies.

(2) AID TO LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.—A State educational agency shall make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools in accordance with subsection (d).

(3) STATE EDUCATIONAL AGENCIES IN CERTAIN STATES.—In the case of the States of Louisiana and Mississippi, the State educational agency shall carry out the activities of eligible local educational agencies that are unable to carry out this section, including eligible local educational agencies in such States for which the State exercises the authorities normally exercised by such local educational agencies.

(b) DEFINITIONS.—In this section:

(1) DISPLACED STUDENT.—The term “displaced student” means a student who enrolled in a school (other than the school that the student was enrolled in, or was eligible to be enrolled in, on August 22, 2005) because such student resides or resided on August 22, 2005, in an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The term “eligible local educational agency” means a local educational agency that serves—

(A) an elementary school or secondary school (including a charter school) in which there is enrolled a displaced student; or

(B) an area in which there is located an eligible non-public school.

(3) ELIGIBLE NON-PUBLIC SCHOOL.—The term “eligible non-public school” means a non-public school that—

(A) is accredited or licensed or otherwise operates in accordance with State law;

(B) was in existence on August 22, 2005; and

(C) serves a displaced student on behalf of whom an application for an account has been made pursuant to subsection (c)(2)(A)(ii).

(4) ELIGIBLE BIA-FUNDED SCHOOL.—In this section, the term “eligible BIA-funded school” means a school funded by the Bureau of Indian Affairs in which there is enrolled a displaced student.

(c) APPLICATION.—

(1) STATE EDUCATIONAL AGENCY.—A State educational agency that desires to receive emergency impact aid under this section shall submit an application to the Secretary of Education at such time, in such manner, and accompanied by such information as the Secretary of Education may reasonably require, including—

(A) information on the total displaced student child count of the State provided by eligible local educational agencies in the State and eligible BIA-funded schools in the State under paragraph (2);

(B) a description of the process for the parent or guardian of a displaced student enrolled in a non-public school to indicate to the eligible local educational agency serving the area in which such school is located that the student is enrolled in such school;

(C) a description of the procedure to be used by an eligible local educational agency in such State to provide payments to accounts;

(D) a description of the process to be used by an eligible local educational agency in such State to obtain—

(i) attestations of attendance of eligible displaced students from eligible non-public schools, in order for the local educational agency to provide payments to accounts on behalf of eligible displaced students; and

(ii) attestations from eligible non-public schools that accounts are used only for the purposes described in subsection (e)(2)(A); and

(E) the criteria, including family income, used to determine the eligibility for and the amount of assistance under this section provided on behalf of a displaced student attending an eligible non-public school.

(2) LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.—An eligible local educational agency or eligible BIA-funded school that desires an emergency impact aid payment under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require, including documentation submitted quarterly for the 2005–2006 school year that indicates the following:

(A) In the case of an eligible local educational agency—

(i) the number of displaced students enrolled in the elementary schools and secondary schools (including charter schools and including the number of displaced students who are served under part B of the Individuals with Disabilities Education Act) served by such agency for such quarter; and

(ii) the number of displaced students for whom the eligible local educational agency expects to provide payments to accounts under subsection (e)(2) (including the number of displaced students who are served under part B of the Individuals with Disabilities Education Act) for such quarter who meet the following criteria:

(I) The displaced student enrolled in an eligible non-public school prior to the date of enactment of this Act.

(II) The parent or guardian of the displaced student chose to enroll the student in the eligible non-public school in which the student is enrolled.

(III) The parent or guardian of the displaced student submitted an application requesting that the agency make a payment to an account on behalf of the student.

(IV) The displaced student's tuition and fees (and transportation expenses, if any) for the 2005–2006 school year is waived or reimbursed (by the eligible non-public school) in an amount that is not less than the amount of emergency impact aid payment provided on behalf of such student under this section.

(B) In the case of an eligible BIA-funded school, the number of displaced students, including the number of displaced students who are served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), enrolled in such school for such quarter.

(3) DETERMINATION OF NUMBER OF DISPLACED STUDENTS.—In determining the number of displaced students for a quarter under paragraph (2), an eligible local educational agency or eligible BIA-funded school shall include in such number the number of displaced students served during such quarter prior to the date of enactment of this Act.

(d) AMOUNT OF EMERGENCY IMPACT AID.—

(1) AID TO STATE EDUCATIONAL AGENCIES.—

(A) IN GENERAL.—The amount of emergency impact aid received by a State educational agency for the 2005–2006 school year shall equal the sum of—

(i) the product of the number of displaced students (who are not served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.)), as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), times \$6,000; and

(ii) the product of the number of displaced students who are served under part B of the Individuals with Disabilities Education Act, as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), times \$7,500.

(B) INSUFFICIENT FUNDS.—If the amount available under this section to provide emergency impact aid under this subsection is insufficient to pay the full amount that a State educational agency is eligible to receive under this section, the Secretary of Education shall ratably reduce the amount of such emergency impact aid.

(2) AID TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.—

(A) QUARTERLY INSTALLMENTS.—

(i) IN GENERAL.—A State educational agency shall provide emergency impact aid payments under this section on a quarterly basis for the 2005–2006 school year by such dates as determined by the Secretary of Education. Such quarterly installment payments shall be based on the number of displaced students reported under subsection (c)(2) and in the amount determined under clause (ii).

(ii) PAYMENT AMOUNT.—Each quarterly installment payment under clause (i) shall equal 25 percent of the sum of—

(I) the number of displaced students (who are not served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.)) reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2)) times \$6,000; and

(II) the number of displaced students who are served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) reported by the eligible local educational agency or eligible BIA-funded school for such quarter (as determined under subsection (c)(2)) times \$7,500.

(iii) TIMELINE.—The Secretary of Education shall establish a timeline for quarterly reporting on the number of displaced students in order to make the appropriate disbursements in a timely manner.

(iv) INSUFFICIENT FUNDS.—If, for any quarter, the amount available under this section to make payments under this subsection is insufficient to pay the full amount that an eligible local educational agency or eligible BIA-funded school is eligible to receive under this section, the State educational agency shall ratably reduce the amount of such payments.

(B) MAXIMUM PAYMENT TO ACCOUNT.—In providing quarterly payments to an account for the 2005–2006 school year on behalf of a displaced student for each quarter that such student is enrolled in a non-public school in the area served by the agency under subsection (e)(2), an eligible local educational agency may provide not more than 4 quarterly payments to such account, and the aggregate amount of such payments shall not exceed the lesser of—

(i) (I) in the case of a displaced student who is not served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), \$6,000; or

(II) in the case of a displaced student who is served under part B of the Individuals with Disabilities Education Act, \$7,500; or

(ii) the cost of tuition and fees (and transportation expenses, if any) at the non-public school for the 2005–2006 school year.

(e) USE OF FUNDS.—

(1) DISPLACED STUDENTS IN PUBLIC SCHOOLS.—An eligible local educational agency or eligible BIA-funded school receiving emergency impact aid payments under this section shall use the payments to provide instructional opportunities for displaced students who enroll in elementary schools and secondary schools (including charter schools) served by such agency or in such a school, and for other expenses incurred as a result of the agency or school serving displaced students, which uses may include—

(A) paying the compensation of personnel, including teacher aides, in schools enrolling displaced students;

(B) identifying and acquiring curricular material, including the costs of providing additional classroom supplies, and mobile educational units and leasing sites or spaces;

(C) basic instructional services for such students, including tutoring, mentoring, or academic counseling;

(D) reasonable transportation costs;

(E) health services (including counseling and mental health services); and

(F) education and support services.

(2) **DISPLACED STUDENTS IN NON-PUBLIC SCHOOLS.**—

(A) **IN GENERAL.**—An eligible local educational agency that receives emergency impact aid payments under this section and that serves an area in which there is located an eligible non-public school shall, at the request of the parent or guardian of a displaced student who meets the criteria described in subsection (c)(2)(A)(ii) and who enrolled in a non-public school in an area served by the agency, use such emergency impact aid payment to provide payment on a quarterly basis (but not to exceed the total amount specified in subsection (d)(2)(B) for the 2005–2006 school year) to an account on behalf of such displaced student, which payment shall be used to assist in paying for any of the following:

(i) Paying the compensation of personnel, including teacher aides, in the non-public school, which funds shall not be used for religious instruction, proselytization, or worship.

(ii) Identifying and acquiring curricular material, including the costs of providing additional classroom supplies (which shall be secular, neutral, and shall not have a religious component), and mobile educational units and leasing sites or spaces, which shall not be used for religious instruction, proselytization, or worship.

(iii) Basic instructional services, including tutoring, mentoring, or academic counseling, which services shall be secular and neutral and shall not be used for religious instruction, proselytization, or worship.

(iv) Reasonable transportation costs.

(v) Health services (including counseling and mental health services), which services shall be secular and neutral and shall not be used for religious instruction, proselytization, or worship.

(vi) Education and support services, which services shall be secular and neutral and shall not be used for religious instruction, proselytization, or worship.

(B) **VERIFICATION OF ENROLLMENT.**—Before providing a quarterly payment to an account under subparagraph (A), the eligible local educational agency shall verify with the parent or guardian of a displaced student that such displaced student is enrolled in the non-public school.

(3) **PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES.**—

(A) **IN GENERAL.**—In the case of a displaced student who is served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), any payment made on behalf of such student to an eligible local educational agency or any payment available in an account for such student, shall be used to pay the cost of providing the student with special education and related services consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) **SPECIAL RULE.**—

(i) **RETENTION.**—Notwithstanding any other provision of this section, if an eligible local educational agency provides services to a displaced student attending an eligible non-public school under section 612(a)(10) of the Individuals with Disabilities Education Act

(20 U.S.C. 1412(a)(10)), the eligible local educational agency may retain a portion of the assistance received under this section for such student to pay the cost of providing such services.

(ii) **DETERMINATION OF PORTION.**—

(I) **GUIDELINES.**—Each State shall issue guidelines that specify the portion of the assistance that an eligible local educational agency in the State may retain under this subparagraph. Each State shall apply such guidelines in a consistent manner throughout the State.

(II) **DETERMINATION OF PORTION.**—The portion specified in the guidelines shall be based on customary costs of providing services under such section 612(a)(10) for the local educational agency.

(C) **DEFINITIONS.**—In this paragraph:

(i) **SPECIAL EDUCATION; RELATED SERVICES.**—The terms “special education” and “related services” have the meaning given such terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(ii) **INDIVIDUALIZED EDUCATION PROGRAM.**—The term “individualized education program” has the meaning given the term in section 614(d)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(2)).

(f) **RETURN OF AID.**—

(1) **ELIGIBLE LOCAL EDUCATIONAL AGENCY OR ELIGIBLE BIA-FUNDED SCHOOL.**—An eligible local educational agency or eligible BIA-funded school that receives an emergency impact aid payment under this section shall return to the State educational agency any payment provided to the eligible local educational agency or school under this section that the eligible local educational agency or school has not obligated by the end of the 2005–2006 school year in accordance with this section.

(2) **STATE EDUCATIONAL AGENCY.**—A State educational agency that receives emergency impact aid under this section, shall return to the Secretary of Education—

(A) any aid provided to the agency under this section that the agency has not obligated by the end of the 2005–2006 school year in accordance with this section; and

(B) any payment funds returned to the State educational agency under paragraph (1).

(g) **LIMITATION ON USE OF AID AND PAYMENTS.**—Aid and payments provided under this section shall only be used for expenses incurred during the 2005–2006 school year.

(h) **ADMINISTRATIVE EXPENSES.**—A State educational agency that receives emergency impact aid under this section may use not more than 1 percent of such aid for administrative expenses. An eligible local educational agency or eligible BIA-funded school that receives emergency impact aid payments under this section may use not more than 2 percent of such payments for administrative expenses.

(i) **SPECIAL FUNDING RULE.**—In calculating funding under section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) for an eligible local educational agency that receives an emergency impact aid payment under this section, the Secretary of Education shall not count displaced students served by such agency for whom an emergency impact aid payment is received under this section, nor shall such students be counted for the purpose of calculating the total number of children in average daily attendance at the schools served by such agency as provided in section 8003(b)(3)(B)(i) of such Act (20 U.S.C. 7703(b)(3)(B)(i)).

(j) **NOTICE OF OPTION OF PUBLIC SCHOOL OR NON-PUBLIC SCHOOL ENROLLMENT.**—Each State receiving emergency impact aid under this section shall provide, to the parent or guardian of each displaced student for whom

a payment is made under this section to an account who resides in such State, notification that such parent or guardian has the option of enrolling such student in a public school or a non-public school.

(k) **BY-PASS.**—If a State educational agency or eligible local educational agency is unable to carry out this section, the Secretary of Education may make such arrangements with the State as the Secretary determines appropriate to carry out this section on behalf of displaced students attending an eligible non-public school in the area served by such agency. For a State in which State law prohibits the State from using Federal funds to directly provide services on behalf of students attending non-public schools and provides that another entity shall provide such services, the Secretary of Education shall make such arrangements with that entity.

(1) **NONDISCRIMINATION.**—

(1) **IN GENERAL.**—A school that enrolls a displaced student under this section shall not discriminate against students on the basis of race, color, national origin, religion, disability, or sex.

(2) **APPLICABILITY AND SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.**—

(A) **IN GENERAL.**—To the extent consistent with title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), the prohibition of sex discrimination in paragraph (1) shall not apply to a non-public school that is controlled by a religious organization if the application of paragraph (1) would not be consistent with the religious tenets of such organization.

(B) **SINGLE SEX SCHOOLS, CLASSES, OR ACTIVITIES.**—Notwithstanding paragraph (1) and to the extent consistent with title IX of the Education Amendments of 1972, a parent or guardian may choose and a non-public school may offer a single sex school, class, or activity.

(C) **ENROLLMENT.**—The prohibition of religious discrimination in paragraph (1) shall not apply with regard to enrollment for a non-public school that is controlled by a religious organization, except in the case of the enrollment of displaced students assisted under this section.

(3) **GENERAL PROVISION.**—Nothing in this section may be construed to alter or modify the provisions of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), and the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(4) **OPT-IN.**—A displaced student assisted under this section who is enrolled in a non-public school shall not participate in religious worship or religious classes at such school unless such student's parent or guardian chooses to opt-in such student for such religious worship or religious classes.

(5) **RULE OF CONSTRUCTION.**—The amount of any payment (or other form of support provided on behalf of a displaced student) under this section shall not be treated as income of a parent or guardian of the student for purposes of Federal tax laws or for determining eligibility for any other Federal program.

(m) **TREATMENT OF STATE AID.**—A State shall not take into consideration emergency impact aid payments received under this section by a local educational agency in the State in determining the eligibility of such local educational agency for State aid, or the amount of State aid, with respect to free public education of children.

**SEC. 7957. ORIGINATION FEES FOR STUDENT LOANS.**

(a) **SPECIAL ALLOWANCES.**—Notwithstanding section 438(c)(2) of the Higher Education Act of 1965 (as amended by this Act) (20 U.S.C. 1087–1(c)(2)), subparagraph (A) of

section 438(c)(2) of such Act shall be applied by substituting “2.0 percent” for “3.0 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2007.

(b) **ORIGINATION FEES FOR FEDERAL DIRECT LOANS.**—Notwithstanding subsection (c) of section 455 of the Higher Education Act of 1965 (as amended by this Act) (20 U.S.C. 1087e(c)), the first sentence of such subsection shall be applied by substituting “1.0 percent” for “not less than 1 percent and not more than 3 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2007.

(c) **REPEAL OF ORIGINATION FEES.**—

(1) **AMENDMENTS.**—Sections 438(c) and 455(c) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(c), 1087e(c)) are repealed.

(2) **EFFECTIVE DATE.**—The amendments made by paragraph (1) shall take effect on July 1, 2011.

(d) **NONAPPLICABILITY OF SUNSET PROVISION.**—Section 7959 shall not apply to this section or to the amendments made by this section.

**SEC. 7958. AUTHORIZATION AND APPROPRIATION OF FUNDS.**

There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, \$1,660,000,000 to carry out this subtitle, of which—

(1) \$450,000,000 shall be available to carry out section 7952;

(2) \$10,000,000 shall be available to carry out section 7955; and

(3) \$1,200,000,000 shall be available to carry out section 7956.

**SEC. 7959. SUNSET PROVISION.**

Except as otherwise provided in this subtitle, the provisions of this subtitle shall be effective for the period beginning on the date of enactment of this Act and ending on August 1, 2006.

**SA 2353.** Mrs. MURRAY submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 391, between lines 2 and 3, insert the following:

(c) **PROSPECTIVE TERMINATION OF 9.5 PERCENT MINIMUM SPECIAL ALLOWANCE PAYMENT.**—Section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)(B)) is amended by adding at the end the following:

“(vi) Notwithstanding clauses (i), (ii), and (v), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I), as the case may be, for a holder of loans—

“(I) that were made or purchased on or after the date of enactment of this clause; or

“(II) that were not earning a quarterly rate of special allowance determined under clause (i) or (ii) as of the date of enactment of this clause.”.

**SA 2354.** Mr. NELSON of Florida (for himself, Mrs. STABENOW, Mr. HARKIN, Mrs. CLINTON, Ms. MIKULSKI, Mrs. MURRAY, Mr. KOHL, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 368, between line 5 and 6, insert the following:

**SEC. 6116. PROTECTION FOR MEDICARE BENEFICIARIES WHO ENROLL IN THE PRESCRIPTION DRUG BENEFIT DURING 2006.**

(a) **IN GENERAL.**—Section 1851(e)(3)(B) (42 U.S.C. 1395w-21(e)(3)(B)) is amended—

(1) in clause (iii), by striking “May 15, 2006” and inserting “December 31, 2006”; and

(2) by adding at the end the following new sentence:

“An individual making an election during the period beginning on November 15, 2006, and ending on December 15, 2006, shall specify whether the election is to be effective with respect to 2006 or with respect to 2007 (or both).”.

(b) **EXTENDING OPEN ENROLLMENT PERIOD FOR 2006.**—

(1) **IN GENERAL.**—Section 1851(e) (42 U.S.C. 1395w-21(e)) is amended—

(A) in paragraph (2)(B)—

(i) in the heading, by striking “**FOR FIRST 6 MONTHS**”;

(ii) in clause (i)—

(I) by striking “the first 6 months of 2006” and inserting “2006”; and

(II) by striking “the first 6 months during 2006” and inserting “2006”;

(iii) in clause (ii), by inserting “(other than during 2006)” after “paragraph (3)”; and

(iv) in clause (iii), by striking “2006” and inserting “2007”; and

(B) in paragraph (4), by striking “2006” and inserting “2007” each place it appears.

(2) **CONFORMING AMENDMENT.**—Section 1860D-1(b)(1)(B)(iii) (42 U.S.C. 1395w-101(b)(1)(B)(iii)) is amended by striking “subparagraphs (B) and (C) of paragraph (2)” and inserting “paragraph (2)(C)”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the enactment of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173).

**SA 2355.** Mr. INHOFE (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

“Beginning with fiscal year 2007 and thereafter, all non-defense, non-trust-fund, discretionary spending shall not exceed the previous fiscal year’s levels, for purposes of the congressional budget process (Section 302 et al of the Congressional Budget Act of 1974), without a  $\frac{2}{3}$  vote of Members duly chosen and sworn.”

**SA 2356.** Mrs. LINCOLN (for herself, Mrs. LANDRIEU, Mr. BAUCUS, Mr. PRYOR, and Mr. KENNEDY) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows;

At the end of subtitle A of title VI, add the following:

**CHAPTER 7—EMERGENCY HEALTH CARE AND OTHER RELIEF FOR SURVIVORS OF HURRICANE KATRINA**

**Subchapter A—Emergency Health Care Relief**

**SEC. 6081. DEFINITIONS.**

In this subchapter:

(1) **DIRECT IMPACT PARISH OR COUNTY.**—

(A) **IN GENERAL.**—The term “direct impact parish or county” means a parish in the State of Louisiana, or a county in the State

of Mississippi or Alabama, for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, before September 14, 2005, warrants individual and public assistance from the Federal Government under such Act.

(B) **EXCLUSION.**—Such term does not include a parish in the State of Louisiana or a county in the State of Mississippi or Alabama which the President has determined warrants only public assistance from the Federal Government under such Act as a result of Hurricane Katrina.

(C) **AUTHORITY TO RELY ON WEB SITE POSTED DESIGNATIONS.**—The Secretary of Health and Human Services shall post on the Internet Web site for the Centers for Medicare & Medicaid Services a list of parishes and counties identified as direct impact parishes or counties in accordance with this paragraph. Any such parish or county that is posted on such Web site as a direct impact parish or county shall be treated for purposes of subparagraph (A) as described in such subparagraph.

(2) **DRM ASSISTANCE.**—The term “DRM assistance” means the short-term, non-cash, temporary, in-kind, emergency disaster relief health program established under section 6082 to assist Katrina Survivors in accordance with that section.

(3) **DRM COVERAGE PERIOD.**—

(A) **IN GENERAL.**—The term “DRM coverage period” means the period beginning on August 28, 2005, and, subject to subparagraph (B), ending on the date that is 5 months after the date of enactment of this Act.

(B) **AUTHORITY TO EXTEND DRM COVERAGE PERIOD.**—

(i) **IN GENERAL.**—The Secretary may extend the DRM coverage period for an additional 5 months. Any reference to the term “DRM coverage period” in this subchapter shall include any extension under this clause.

(ii) **NOTICE TO CONGRESS AND STATES.**—The Secretary shall notify the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Chairs and Ranking Members of the Committee on Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, and the States at least 45 days prior to—

(I) extending the DRM coverage period; or

(II) if the Secretary determines not to extend such period, the ending date described in subparagraph (A).

(4) **KATRINA SURVIVOR.**—

(A) **IN GENERAL.**—The term “Katrina Survivor” means an individual who is described in subparagraph (B) or (C).

(B) **RESIDENTS AND EVACUEES OF DIRECT IMPACT PARISHES AND COUNTIES.**—An individual who, on any day during the week preceding August 28, 2005, had a primary residence in a direct impact parish or county.

(C) **INDIVIDUALS WHO LOST EMPLOYMENT.**—An individual whose—

(i) worksite, on any day during the week preceding August 28, 2005, was located in a direct impact parish or county; and

(ii) employment with an employer which conducted an active trade or business on August 28, 2005, in a direct impact parish or county and with respect to whom such trade or business is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained in connection with Hurricane Katrina, is terminated.

(D) **TREATMENT OF CURRENT MEDICAID BENEFICIARIES.**—Nothing in this subchapter shall be construed as preventing an individual who is otherwise entitled to medical assistance under title XIX of the Social Security Act



from being treated as a Katrina Survivor under this subchapter.

(E) TREATMENT OF HOMELESS PERSONS.—For purposes of this subchapter, in the case of an individual who was homeless on any day during the week described in subparagraph (B), the individual's "residence" shall be deemed to be the place of residence as otherwise determined for such an individual under title XIX of the Social Security Act.

(5) POVERTY LINE.—The term "poverty line" has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(6) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(7) STATE.—The term "State" has the meaning given that term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(8) STATE MEDICAID PLAN.—The term "State Medicaid plan" means a State plan for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including any medical assistance provided under a waiver of such plan.

#### SEC. 6082. DISASTER RELIEF MEDICAID.

(a) AUTHORITY TO PROVIDE DISASTER RELIEF MEDICAID.—

(1) IN GENERAL.—Notwithstanding any provision of title XIX of the Social Security Act, a State shall, as a condition of participation in the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), provide medical assistance to DRM-eligible Katrina Survivors (as defined in subsection (b)) under a State Medicaid plan during the DRM coverage period in accordance with the following provisions of this section.

(2) AUTHORITY TO PROVIDE DRM ASSISTANCE AS SEPARATE COMPONENT OF REGULAR STATE MEDICAID PLAN OR UNDER SUCH PLAN.—

(A) IN GENERAL.—A State may provide DRM assistance without submitting an amendment to the State Medicaid plan and as a separate component of the State Medicaid plan or, subject to subparagraph (B), under such plan.

(B) CONDITIONS FOR PROVISION OF DRM ASSISTANCE UNDER REGULAR STATE MEDICAID PLAN.—A State may only provide DRM assistance under the State Medicaid plan if the State provides such assistance in accordance with the requirements of this section and the State is able to separately identify and report expenditures or other information attributable to the provision of such assistance.

(b) DRM-ELIGIBLE KATRINA SURVIVOR DEFINED.—

(1) IN GENERAL.—In this section, the term "DRM-eligible Katrina Survivor" means a Katrina Survivor whose family income does not exceed the higher of—

(A) 100 percent (200 percent, in the case of such a Survivor who is a pregnant woman or child) of the poverty line; or

(B) the income eligibility standard which would apply to the Survivor under the State Medicaid plan.

(2) SPECIAL RULE FOR KATRINA SURVIVORS WHO ARE RECIPIENTS OF DISABILITY INSURANCE BENEFITS.—In the case of a Katrina Survivor who is a recipient of disability insurance benefits under section 202 or 223 of the Social Security Act (42 U.S.C. 402, 423), paragraph (1) shall be applied to such Survivor by substituting "300 percent of the supplemental security income benefit rate established by section 1611(b)(1) of the Social Security Act (42 U.S.C. 1382(b)(1))" for subparagraph (A) of such paragraph.

(3) NO RESOURCES, RESIDENCY, OR CATEGORICAL ELIGIBILITY REQUIREMENTS.—Eligibility under paragraph (1) shall be determined

without application of any resources test, State residency, or categorical eligibility requirements.

(4) INCOME DETERMINATION.—

(A) LEAST RESTRICTIVE INCOME METHODOLOGIES; PROSPECTIVE DETERMINATION.—The State shall use the least restrictive methodologies applied under the State Medicaid plan under section 1902(r)(2) of the Social Security Act (42 U.S.C. 1396a(r)(2)) in determining income eligibility for Katrina Survivors under paragraph (1) and shall determine family income for such Survivors only prospectively from the date of application.

(B) DISREGARD OF UI COMPENSATION AND DISASTER RELIEF ASSISTANCE.—In determining such income eligibility, the State shall disregard—

(i) any amount received under a law of the United States or of a State which is in the nature of unemployment compensation by a Katrina Survivor during the DRM coverage period, including unemployment assistance provided under section 410 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177); and

(ii) any assistance provided (in cash or in kind) to a Katrina Survivor from any public or private entity as a result of Hurricane Katrina.

(5) DEFINITION OF CHILD.—For purposes of paragraph (1), a DRM-eligible Katrina Survivor shall be determined to be a "child" if such Survivor meets the definition of "child" under the State Medicaid plan.

(6) CERTAIN INDIVIDUALS DEEMED TO BE DRM-ELIGIBLE KATRINA SURVIVORS.—

(A) IN GENERAL.—Upon submission of an application from an individual attesting that the individual is an individual described in any of the categories described in subparagraph (B), or, if an individual is an individual described in subparagraph (C), the State shall deem the individual to be a DRM-eligible Katrina Survivor for purposes of eligibility for DRM assistance during the DRM coverage period.

(B) CATEGORIES DESCRIBED.—For purposes of subparagraph (A), the categories described in this subparagraph are the following:

(i) KATRINA SURVIVORS ENROLLED IN A STATE MEDICAID PLAN AS OF THE BEGINNING OF THE DRM COVERAGE PERIOD.—Any Katrina Survivor who can provide proof of enrollment in a State Medicaid plan as of August 28, 2005.

(ii) KATRINA SURVIVORS WHO ARE RECIPIENTS OF UNEMPLOYMENT COMPENSATION.—Any Katrina Survivor who, during the DRM coverage period, is a recipient of an amount paid under a law of the United States or of a State which is in the nature of unemployment compensation, including unemployment assistance provided under section 410 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177).

(iii) KATRINA SURVIVORS ENROLLED IN DRM ASSISTANCE IN ANOTHER STATE.—Any Katrina Survivor determined by another State to be a DRM-eligible Katrina Survivor who was enrolled in DRM assistance in that State and who relocates to the State during the DRM coverage period.

(C) KATRINA SURVIVORS PROVIDED MEDICAL ASSISTANCE PRIOR TO DATE OF ENACTMENT.—

(i) IN GENERAL.—An individual described in this subparagraph is any Katrina Survivor who is provided medical assistance under a State Medicaid plan in accordance with guidance from the Secretary during the period that begins on August 28, 2005, and ends on the date of enactment of this Act.

(ii) NONAPPLICATION TO CHILD HEALTH ASSISTANCE.—In the case of an individual who is a Katrina Survivor who is provided child health assistance under a State child health plan in accordance with guidance from the Secretary during the period described in

clause (i), such individual shall not be deemed to be a DRM-eligible Katrina Survivor for purposes of receiving DRM assistance under this section. Nothing in the preceding sentence shall be construed as prohibiting such an individual from submitting an application for DRM assistance.

(c) ELIGIBILITY DETERMINATION; NO CONTINUATION OF DRM ASSISTANCE.—

(1) STREAMLINED ELIGIBILITY PROCESS.—The State shall use the following streamlined procedures in processing applications and determining eligibility for DRM assistance for DRM-eligible Katrina Survivors and eligibility for the payment of private health insurance premiums under section 107(b)(2)(A):

(A) ONE-PAGE APPLICATION.—A common 1-page application form developed by the Secretary of Health and Human Services in consultation with the National Association of State Medicaid Directors. Such form shall—

(i) require an applicant to provide an expected address for the duration of the DRM coverage period and to agree to update that information if it changes during such period;

(ii) include notice regarding the penalties for making a fraudulent application under subsection (h);

(iii) require the applicant to assign to the State any rights of the applicant (or any other person who is a DRM-eligible Katrina Survivor and on whose behalf the applicant has the legal authority to execute an assignment of such rights) under any group health plan or other third-party coverage for health care;

(iv) require the applicant to—

(I) list any health insurance coverage which the applicant was enrolled in immediately prior to submitting such application; and

(II) indicate whether the applicant would rather receive DRM assistance from a State in accordance with this section or, if private health insurance is available, assistance in paying the premiums for such health insurance under section 6088(b)(2)(A); and

(v) be translated by the Secretary into languages other than English, and in cultural contexts, that are most appropriate for the applicants expected to submit such forms.

(B) SELF-ATTESTATION.—Self-attestation by the applicant that the applicant—

(i) is a DRM-eligible Katrina Survivor; and

(ii) if applicable, requires home and community-based services provided under such DRM assistance in accordance with subsection (d)(3).

(C) NO DOCUMENTATION.—The State shall not require documentation evidencing the basis on which the applicant qualifies to be a DRM-eligible Katrina Survivor or, if applicable, requires home and community-based services.

(D) ISSUANCE OF ELIGIBILITY CARD.—

(i) IN GENERAL.—Subject to clause (iii), the State shall, immediately upon submission of a complete application (including the self-attestation required under subparagraph (B)) by an applicant, issue a DRM assistance eligibility card to the applicant.

(ii) VALIDITY; NOTICE OF TERMINATION DATE.—A DRM assistance eligibility card shall be valid as long as the DRM coverage period is in effect and shall be accompanied by notice of the termination date for the DRM coverage period and, if applicable, notice that such termination date may be extended. If the Secretary extends the DRM coverage period, the State shall notify DRM-eligible Katrina Survivors enrolled in DRM assistance of the new termination date for the DRM coverage period.

(iii) APPLICATION TO STATES THAT ELECT TO PROVIDE DRM ASSISTANCE UNDER THE REGULAR STATE MEDICAID PLAN.—In the case of a State that elects under subsection (a)(2) to provide DRM assistance under the State Medicaid

plan, the State may issue to an applicant who submits a complete application an eligibility card that is similar to the cards issued by the State to enrollees in the State Medicaid plan, but only if the State is able to adapt the card in a manner which clearly identifies that the applicant is eligible for DRM assistance and provides notice of the termination date for the DRM coverage period (and the new termination date applicable if the Secretary extends such coverage period).

(E) APPLICATION FOR MEDICAL ASSISTANCE UNDER REGULAR STATE MEDICAID PLAN.—Concurrent with the issuance of an eligibility card under subparagraph (D), the State shall provide the applicant with an application for medical assistance under the State Medicaid plan.

(F) PRESUMPTIVE ELIGIBILITY.—

(i) STATES THAT PROVIDE FOR PRESUMPTIVE ELIGIBILITY UNDER THE REGULAR STATE MEDICAID PLAN.—In the case of a State that, as of the date of enactment of this Act, provides for a period of presumptive eligibility under the State Medicaid plan in accordance with section 1920, 1920A, or 1920B of the Social Security Act (42 U.S.C. 1396r–1, 1396r–1a, 1396r–1b), the State shall deem an applicant to be a DRM-eligible Katrina Survivor eligible for DRM assistance in accordance with this section, subject to subsection (g), if the applicant completes an application for such assistance, presents it to a provider or facility participating in the State Medicaid plan that is qualified to make presumptive eligibility determinations under such plan (which at a minimum shall consist of facilities identified in section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)), and it appears to the provider or facility that the applicant is a DRM-eligible Katrina Survivor based on the information in the application.

(ii) APPLICATION TO STATES THAT DO NOT PROVIDE PRESUMPTIVE ELIGIBILITY UNDER THE REGULAR STATE MEDICAID PLAN.—In the case of a State which does not provide for a period of presumptive eligibility under the State Medicaid plan, the State may elect to provide for a period of presumptive eligibility for DRM assistance by designating qualified providers (as defined in section 1920(b)(2) of such Act (42 U.S.C. 1396r–1(b)(2))) as providers that are specifically designated by the State to make presumptive determinations in accordance with clause (i) with respect to eligibility for such assistance, but only if—

(I) the State elects to provide for a period of presumptive eligibility for such assistance for all Katrina Survivors who may be DRM-eligible Katrina Survivors in accordance with subsection (b); and

(II) the qualified providers designated by the State to make determinations of presumptive eligibility for such assistance, at a minimum, consistent of facilities identified in section 1902(a)(55) of the Social Security Act (42 U.S.C. 1396a(a)(55)) that are qualified providers under section 1920(b)(2) of such Act.

(G) CONTINUOUS ELIGIBILITY.—Continuous eligibility, without the need for any redetermination of eligibility, for the duration of the DRM coverage period.

(2) NO CONTINUATION OF DRM ASSISTANCE.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), no DRM assistance shall be provided after the end of the DRM coverage period.

(B) PRESUMPTIVE ELIGIBILITY FOR MEDICAL ASSISTANCE UNDER REGULAR MEDICAID PLAN.—

(i) IN GENERAL.—If a State, as of the date of enactment of this Act, provides for a period of presumptive eligibility for medical assistance under the State Medicaid plan in accordance with section 1920, 1920A, or 1920B of the Social Security Act (42 U.S.C. 1396r–1,

1396r–1a, 1396r–1b), the State shall provide a DRM-eligible Katrina Survivor who is receiving DRM assistance from the State in accordance with this section and who, as of the end of the DRM coverage period, is an individual for whom a period of presumptive eligibility would be provided under the State Medicaid plan, with presumptive eligibility for medical assistance under the State Medicaid plan.

(ii) STATE OPTION TO PROVIDE PRESUMPTIVE ELIGIBILITY.—If a State is a State to which clause (i) does not apply, the State may elect to provide for a period of presumptive eligibility for medical assistance under the State Medicaid plan for a DRM-eligible Katrina Survivor who is receiving DRM assistance from the State in accordance with this section and who, as of the end of the DRM coverage period, is an individual for whom a period of presumptive eligibility would be provided under the State Medicaid plan in accordance with section 1920, 1920A, or 1920B of such Act, if the State were to provide such a period of presumptive eligibility under the State Medicaid plan.

(iii) STATE OPTION FOR ALL STATES TO PROVIDE PRESUMPTIVE ELIGIBILITY TO OTHER POPULATIONS OF DRM-ELIGIBLE KATRINA SURVIVORS.—In addition to the populations of DRM-eligible Katrina Survivors described in clauses (i) and (ii), a State to which clause (i) or (ii) applies, may elect to provide for a period of presumptive eligibility for medical assistance under the State Medicaid plan for other DRM-eligible Katrina Survivors who are receiving DRM assistance from the State in accordance with this section as of the end of the DRM coverage period.

(iv) LENGTH OF PERIOD.—A presumptive eligibility period provided in accordance with clause (i), (ii), or (iii) shall be provided until the earlier of—

(I) the date on which a determination with respect to the Survivor's application for medical assistance under the State Medicaid plan is made; or

(II) the end of the 60-day period that begins on the first day after the end of the DRM coverage period.

(C) PREGNANT WOMEN.—In the case of a DRM-eligible Katrina Survivor who is receiving DRM assistance from a State in accordance with this section and whose pregnancy ended during the 60-day period prior to the end of the DRM coverage period, or who is pregnant as of the end of such period, such Survivor shall continue to be eligible for DRM assistance after the end of the DRM coverage period, including (but not limited to) for all pregnancy-related and postpartum medical assistance available under the State Medicaid plan, through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.

(d) SCOPE OF COVERAGE.—

(1) CATEGORICALLY NEEDY BENEFITS.—The State shall treat a DRM-eligible Katrina Survivor as an individual eligible for medical assistance under the State plan under title XIX of the Social Security Act on the basis of section 1902(a)(10)(A)(i) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(i)), with coverage for such assistance retroactive to items and services furnished on or after August 28, 2005 (or in the case of applications for DRM assistance submitted after January 1, 2006, the first day of the 5th month preceding the date on which such application is submitted).

(2) EXTENDED MENTAL HEALTH AND CARE COORDINATION BENEFITS.—The State may provide, without regard to any restrictions on amount, duration, and scope, comparability, or restrictions otherwise applicable under the State Medicaid plan (other than restrictions applicable under such plan with respect to services provided in an institution for

mental diseases), to DRM-eligible Katrina Survivors extended mental health and care coordination benefits which may include the following:

(A) Screening, assessment, and diagnostic services (including specialized assessments for individuals with cognitive impairments).

(B) Coverage for a full range of mental health medications at the dosages and frequencies prescribed by health professionals for depression, post-traumatic stress disorder, and other mental disorders.

(C) Treatment of alcohol and substance abuse.

(D) Psychotherapy, rehabilitation, and other treatments administered by psychiatrists, psychologists, or social workers.

(E) Subject to restrictions applicable under the State Medicaid plan with respect to services provided in an institution for mental diseases, in-patient mental health care.

(F) Family counseling.

(G) In connection with the provision of health and long-term care services, arranging for, (and when necessary, enrollment in waiver programs or other specialized programs), and coordination related to, primary and specialty medical care, which may include personal care services, durable medical equipment and supplies, assistive technology, and transportation.

(3) HOME AND COMMUNITY-BASED SERVICES.—

(A) IN GENERAL.—In the case of a State with a waiver to provide home and community-based services granted under section 1115 of the Social Security Act or under subsection (c) or (d) of section 1915 of such Act, the State may provide such services to DRM-eligible Katrina Survivors who self-attest in accordance with subsection (c)(1)(B)(ii) that they require immediate home and community-based services that are available under such waiver without regard to whether the Survivors would require the level of care provided in a hospital, nursing facility, or intermediate care facility for the mentally retarded. Such DRM-eligible Katrina Survivors include (but are not limited to) individuals described in subparagraph (B).

(B) INDIVIDUALS DESCRIBED.—Individuals described in this subparagraph are individuals who—

(i) on any day during the week preceding August 28, 2005—

(I) had been receiving home and community-based services under a waiver described in subparagraph (A) in a direct impact parish or county;

(II) had been receiving support services from a primary family caregiver who, as a result of Hurricane Katrina, is no longer available to provide services; or

(III) had been receiving personal care, home health, or rehabilitative services under the State Medicaid plan or under a waiver granted under section 1915 or 1115 of the Social Security Act; or

(ii) are disabled (as determined under the State Medicaid plan).

(B) WAIVER OF RESTRICTIONS.—The Secretary shall waive with respect to the provision of home and community-based services under this paragraph any limitations on—

(i) the number of individuals who shall receive home or community-based services under a waiver described in subparagraph (A);

(ii) budget neutrality requirements applicable to such waiver; and

(iii) targeted populations eligible for services under such waiver.

The Secretary may waive other restrictions applicable under such a waiver, that would prevent a State from providing home and community-based services in accordance with this paragraph.

(4) CHILDREN BORN TO PREGNANT WOMEN.—In the case of a child born to a DRM-eligible



Katrina Survivor who is provided DRM assistance during the DRM coverage period, such child shall be treated as having been born to a pregnant woman eligible for medical assistance under the State Medicaid plan and shall be eligible for medical assistance under such plan in accordance with section 1902(e)(4) of the Social Security Act (42 U.S.C. 1396a(e)(4)). The Federal medical assistance percentage applicable to the State Medicaid plan shall apply to medical assistance provided to a child under such plan in accordance with the preceding sentence.

(e) **TERMINATION OF COVERAGE; ASSISTANCE WITH APPLYING FOR REGULAR MEDICAID COVERAGE.**—

(1) **NOTICE OF EXPECTED TERMINATION OF DRM COVERAGE PERIOD.**—A State shall provide DRM-eligible Katrina Survivors who are receiving DRM assistance from the State in accordance with this section, as of the beginning of the 4th month (and, if applicable, 9th month) of the DRM coverage period with—

(A) notice of the expected termination date for DRM assistance for such period and, if applicable, any extension of the DRM coverage period and the expected termination date for the extension of such period;

(B) information regarding eligibility for medical assistance under the State's eligibility rules otherwise applicable under the State Medicaid plan; and

(C) an application for such assistance and information regarding where to obtain assistance with completing such application in accordance with paragraph (2).

(2) **APPLICATION ASSISTANCE.**—A State shall provide DRM-eligible Katrina Survivors who are receiving DRM assistance from the State in accordance with this section with assistance in applying for medical assistance under the State Medicaid plan for periods beginning after the end of the DRM coverage period, at State Medicaid offices and at locations easily accessible to such Survivors.

(3) **STATE REPORTS.**—A State providing DRM assistance in accordance with this section shall submit to the Secretary the following reports:

(A) **TERMINATION AND TRANSITION ASSISTANCE TO REGULAR MEDICAID COVERAGE FOR DRM-ELIGIBLE KATRINA SURVIVORS ELIGIBLE FOR SUCH ASSISTANCE.**—Not later than the last day of the 3rd month of the DRM coverage period, a report detailing how the State intends to satisfy the requirements of paragraphs (1) and (2).

(B) **ENROLLMENT.**—Not later than 3 months after the end of the DRM coverage period, a report regarding—

(i) the number of Katrina Survivors who are determined to be DRM-eligible Katrina Survivors; and

(ii) the number of DRM-eligible Katrina Survivors who are determined to be eligible for, and enrolled in, the State Medicaid plan.

(4) **SECRETARIAL OVERSIGHT.**—The Secretary of Health and Human Services shall ensure that a State is complying with the requirements of paragraphs (1) and (2) and that applications for medical assistance under the State Medicaid plan from DRM-eligible Katrina Survivors for periods beginning after the end of the DRM coverage period are processed in a timely and appropriate manner.

(5) **NO PRIVATE RIGHT OF ACTION AGAINST A STATE FOR FAILURE TO PROVIDE NOTICE.**—No private right of action shall be brought against a State for failure to provide the notices required under paragraph (1) or subsection (c)(1) so long as the State makes a good faith effort to provide such notices.

(f) **100 PERCENT FEDERAL MATCHING PAYMENTS.**—

(1) **IN GENERAL.**—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), the Federal medical assistance percentage or the Federal matching rate other-

wise applied under section 1903(a) of such Act (42 U.S.C. 1396b(a)) shall be 100 percent for—

(A) providing DRM assistance to DRM-eligible Katrina Survivors during the DRM coverage period in accordance with this section;

(B) costs directly attributable to administrative activities related to the provision of such DRM assistance, including costs attributable to obtaining recoveries under subsection (h);

(C) costs directly attributable to providing application assistance in accordance with subsection (e)(2); and

(D) medical assistance provided in accordance with subparagraph (B) of subsection (c)(2), and DRM assistance provided in accordance with subparagraph (C) of that subsection, after the end of the DRM coverage period.

(2) **INCLUSION OF ASSISTANCE PROVIDED TO KATRINA SURVIVORS PRIOR TO DATE OF ENACTMENT.**—Any assistance provided to a Katrina Survivor under a State Medicaid plan in accordance with guidance from the Secretary during the period that begins on August 28, 2005, and ends on the date of enactment of this Act, shall be treated as a DRM assistance provided to a DRM-eligible Katrina Survivor during the DRM coverage period for purposes of paragraph (1).

(3) **100 PERCENT FEDERAL MATCHING PAYMENTS FOR COSTS FOR PROVIDING CHILD HEALTH ASSISTANCE PRIOR TO DATE OF ENACTMENT; RESTORATION OF ALLOTMENTS USED TO PROVIDE SUCH ASSISTANCE.**—With respect to child health assistance for items and services furnished during the period described in paragraph (2) to a Katrina Survivor—

(A) notwithstanding section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)), the Federal matching rate for providing such child health assistance under a State child health plan and for costs directly attributable to all administrative activities that relate to the provision of such child health assistance, shall be 100 percent;

(B) payments to a State for the provision of such assistance shall not be considered to be payments from an allotment for the State under section 2104 of such Act (42 U.S.C. 1397dd); and

(C) any payments that were made to a State for the provision of such assistance prior to such date of enactment, shall be disregarded for purposes of determining the unexpended amount of any allotment available for expenditure by the State under that section.

(4) **DISREGARD OF PAYMENTS.**—Payments provided to a State in accordance with this subsection shall be disregarded for purposes of applying subsections (f) and (g) of section 1108 of the Social Security Act (42 U.S.C. 1308).

(g) **VERIFICATION OF STATUS AS A KATRINA SURVIVOR.**—

(1) **IN GENERAL.**—The State shall make a good faith effort to verify the status of an individual who is enrolled in the State Medicaid plan as a DRM-eligible Katrina Survivor under the provisions of this section. Such effort shall not delay the determination of the eligibility of the Survivor for DRM assistance under this section or the provision of such assistance to the Survivor.

(2) **EVIDENCE OF VERIFICATION.**—A State may satisfy the verification requirement under subparagraph (A) with respect to an individual by showing that the State providing DRM assistance obtained information from the Federal Emergency Management Agency, the Social Security Administration, the Internal Revenue Service, or the State Medicaid Agency for the State from which individual is from (if the individual was not a resident of such State on any day during the week preceding August 28, 2005).

(h) **PENALTY FOR FRAUDULENT APPLICATIONS.**—

(1) **INDIVIDUAL LIABLE FOR COSTS.**—If a State, as the result of verification activities conducted under subsection (g) or otherwise, determines after a fair hearing that an individual has knowingly made a false self-attestation described in subsection (c)(1)(B), the State may, subject to paragraph (2), seek recovery from the individual for the full amount of the cost of DRM assistance provided to the individual under this section.

(2) **EXCEPTION.**—The Secretary shall exempt a State from seeking recovery under paragraph (1) if the Secretary determines that it would not be cost-effective for the State to do so.

(3) **REIMBURSEMENT TO THE FEDERAL GOVERNMENT.**—Any amounts recovered by a State in accordance with this subsection shall be returned to the Federal government.

(i) **EXEMPTION FROM ERROR RATE PENALTIES.**—

(1) **IN GENERAL.**—All payments attributable to providing DRM assistance in accordance with this section, including during a period of presumptive eligibility for such assistance in accordance with subsection (c)(1)(F), shall be disregarded for purposes of section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)).

(2) **APPLICATION OF ERROR RATE PENALTIES FOR PRESUMPTIVE ELIGIBILITY PERIODS FOR MEDICAL ASSISTANCE AFTER THE END OF THE DRM COVERAGE PERIOD.**—The rules for application of such section under the State Medicaid plan, as in effect on the date of enactment of this Act, shall apply with respect to any period of presumptive eligibility for medical assistance under such plan provided by a State in accordance with subsection (c)(2)(B).

(j) **PROVIDER PAYMENT RATES.**—In the case of any DRM assistance provided in accordance with this section to a DRM-eligible Katrina Survivor that is covered under the State Medicaid plan (as applied without regard to this section) the State shall pay a provider of such assistance the same payment rate as the State would otherwise pay for the assistance if the assistance were provided under the State Medicaid plan (or, if no such payment rate applies under the State Medicaid plan, the usual and customary prevailing rate for the item or service for the community in which it is provided).

(k) **APPLICATION TO INDIVIDUALS ELIGIBLE FOR MEDICAL ASSISTANCE.**—Nothing in this section shall be construed as affecting any rights accorded to an individual who is a recipient of medical assistance under a State Medicaid plan who is determined to be a DRM-eligible Katrina Survivor, but the provision of DRM assistance to such individual shall be limited to the provision of such assistance in accordance with this section.

(l) **NO ENTITLEMENT TO REGULAR MEDICAL ASSISTANCE SOLELY ON THE BASIS OF RECEIPT OF DRM ASSISTANCE OR IN THE ABSENCE OF A NEW APPLICATION FOR MEDICAL ASSISTANCE.**—Notwithstanding paragraphs (3) and (8) of section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), and section 435.930(b) of title 42, Code of Federal Regulations, subject to subparagraphs (B) and (C) of subsection (c)(2), and subsection (d)(4), nothing in this section shall be construed as providing an individual who is a DRM-eligible Katrina Survivor who receives DRM assistance in accordance with this section, with an entitlement to receive medical assistance under the State Medicaid plan after the end of the DRM coverage period—

(1) solely on the basis of the individual's receipt of such DRM assistance; or

(2) in the absence of a new application submitted by such individual for medical assistance under such plan.

(m) LIMITATION WITH RESPECT TO APPLICATION TO MEDICARE PRESCRIPTION DRUG BENEFIT.—In the case of an individual who is a DRM-eligible Katrina Survivor who receives DRM assistance from a State in accordance with this section, and who is eligible for part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.) or enrolled in part B of title XVIII of such Act (42 U.S.C. 1395j et seq.)—

(1) the State payment required under section 1935(c) of such Act (42 U.S.C. 1395u–5(c)) shall be determined without regard to the provision of DRM assistance to such individual; and

(2) such individual shall not be treated as a subsidy eligible individual for purposes of eligibility for the low-income subsidies provided under section 1860D–14 of such Act (42 U.S.C. 1395w–114) with respect to the prescription drug coverage provided under part D of title XVIII of such Act (42 U.S.C. 1395w–101 et seq.), or enrollment in such coverage, solely on the basis of the provision of DRM assistance to such individual.

(n) NO DRM ASSISTANCE IF THE SECRETARY IS MAKING PAYMENTS ON BEHALF OF THE INDIVIDUAL FOR PRIVATE HEALTH INSURANCE.—A DRM-eligible Katrina Survivor may not receive DRM assistance from a State in accordance with this section during any period in which the Secretary is making a payment for a health insurance premium on behalf of such Survivor under section 6088(b)(2)(A) with respect to that period.

**SEC. 6083. TARGETED MEDICAID RELIEF FOR MAJOR DISASTER PARISHES AND COUNTIES IN LOUISIANA, MISSISSIPPI, AND ALABAMA.**

(a) 100 PERCENT FEDERAL MATCHING PAYMENTS FOR MEDICAL ASSISTANCE PROVIDED IN MAJOR DISASTER PARISH OR COUNTY.—

(1) IN GENERAL.—Notwithstanding section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)), for items and services furnished during the period that begins on August 28, 2005, and ends on August 31, 2006, the Federal medical assistance percentage for providing medical assistance for such items and services under a State Medicaid plan to any individual, including a Katrina Survivor, residing in a major disaster parish or county (as defined in subsection (c)), and for costs directly attributable to all administrative activities that relate to the provision of such medical assistance, shall be 100 percent.

(2) APPLICATION TO CHILD HEALTH ASSISTANCE.—Notwithstanding section 2105(b) of the Social Security Act (42 U.S.C. 1397ee(b)), for items and services furnished during the period described in subsection (a), the Federal matching rate for providing child health assistance for such items and services under a State child health plan in a major disaster parish or county, and for costs directly attributable to all administrative activities that relate to the provision of such child health assistance, shall be 100 percent.

(b) MORATORIUM ON REDETERMINATIONS.—During the DRM coverage period, the States of Louisiana, Mississippi, and Alabama shall not be required to conduct eligibility redeterminations under the State's Medicaid plan.

(c) MAJOR DISASTER PARISH OR COUNTY DEFINED.—For purposes of subsection (a), a major disaster parish or county is a parish of the State of Louisiana or a county of the State of Mississippi or Alabama for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) as a result of Hurricane Katrina and which the President has determined, as of September 14, 2005, warrants individual or public assistance from the Federal Government under such Act.

**SEC. 6084. AUTHORITY TO WAIVE REQUIREMENTS DURING NATIONAL EMERGENCIES WITH RESPECT TO EVACUEES FROM AN EMERGENCY AREA.**

(a) IN GENERAL.—Section 1135(g)(1) of the Social Security Act (42 U.S.C. 1320b–5(g)(1)) is amended by adding at the end the following:

“Any geographical area in which the Secretary determines there are a significant number of evacuees from an area that is considered to be an emergency area under the preceding sentence shall be considered to be an ‘emergency area’ for purposes of this section.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on August 28, 2005.

**SEC. 6085. EMERGENCY ASSISTANCE FOR STATES WITH SIGNIFICANT NUMBERS OF EVACUEES WITH RESPECT TO THE FEDERAL MEDICAL ASSISTANCE PERCENTAGE FOR FISCAL YEAR 2006.**

(a) IN GENERAL.—If the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b))) determined for a State described in subsection (b) for fiscal year 2006 is less than the Federal medical assistance percentage determined for such State for fiscal year 2005, the Federal medical assistance percentage for the State for fiscal year 2005 shall apply to the State for fiscal year 2006 for purposes of titles XIX and XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.).

(b) STATE DESCRIBED.—For purposes of subsection (a), a State described in this subsection is a State that, as of September 30, 2005, is hosting at least 10,000 Katrina Survivors described in section 6081(4)(A), as determined on the basis of Federal Emergency Management Authority data.

**SEC. 6086. EMERGENCY ASSISTANCE TO MEDICARE BENEFICIARIES.**

(a) EXCLUSION OF DRM COVERAGE PERIOD IN COMPUTING MEDICARE PART B LATE ENROLLMENT PERIOD.—In applying the first sentence of section 1839(b) of the Social Security Act (42 U.S.C. 1395r(b)), in the case of an individual who, on any day during the week preceding August 28, 2005, had a residence in a direct impact parish or county, there shall not be taken into account any month any part of which is within the DRM coverage period.

(b) WRITTEN PLAN ON TRANSITION OF CERTAIN FULL-BENEFIT DUAL ELIGIBLE INDIVIDUALS TO PRESCRIPTION DRUG COVERAGE UNDER MEDICARE PART D.—

(1) IN GENERAL.—Not later than December 1, 2005, the Secretary of Health and Human Services (in this subsection referred to as the “Secretary”) shall submit to Congress a written plan on how the Secretary will provide for the transition of coverage of prescription drugs for full-benefit dual eligible individuals (as defined in section 1935(c)(6) of the Social Security Act (42 U.S.C. 1396u–5(c)(6))) who, on any day during the week preceding August 28, 2005, had a residence in a direct impact parish or county, from the Medicaid program under title XIX of such Act to the Medicare program under part D of title XVIII of such Act.

(2) REQUIREMENTS.—The plan shall address issues relating to the following:

(A) The application of the rules for automatic assignment into prescription drug plans under section 1860D–1(b)(1)(C) of the Social Security Act (42 U.S.C. 1395w–101(b)(1)(C)).

(B) The communication by the Secretary and sponsors of prescription drug plans to individuals described in paragraph (1) of—

(i) information regarding such rules; and

(ii) if such an individual is automatically assigned to a plan, information on the plan.

(C) Beneficiary protections related to the emergency use of out-of-network and nonformulary benefits, including under circumstances related to a lack of medical records and access to prescribing physicians.

(D) Any other area determined appropriate by the Secretary.

**SEC. 6087. RELIEF FOR HOSPITALS LOCATED IN A DIRECT IMPACT PARISH OR COUNTY.**

(a) INCREASE IN MEDICARE PAYMENTS TO HOSPITALS FOR BAD DEBT.—During the DRM coverage period, section 1861(v)(1)(T)(iv) of the Social Security Act (42 U.S.C. 1395x(v)(1)(T)(iv)) shall be applied by substituting “0 percent” for “30 percent” with respect to—

(1) a hospital located in a direct impact parish or county; and

(2) any other hospital, but only to the extent that the bad debt is related to items and services furnished to an individual who, on any day during the week preceding August 28, 2005, had a residence in a direct impact parish or county.

(b) WAIVER OF CERTAIN MEDICARE QUALITY REPORTING REQUIREMENTS FOR HOSPITALS.—During the DRM coverage period, section 1886(b)(3)(B)(vii) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)(vii)) shall not apply to a hospital that is located in a direct impact parish or county.

**SEC. 6088. DISASTER RELIEF FUND.**

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Disaster Relief Fund (in this section referred to as the “Fund”) which—

(1) shall be administered by the Secretary; and

(2) shall consist of amounts made available under subsection (h).

(b) USE OF AMOUNTS IN FUND.—Amounts in the Fund shall be used by the Secretary for the following:

(1) PAYMENTS TO PROVIDERS.—The Secretary shall make payments directly to medical providers described in subsection (e) to offset the costs incurred by such providers as a result of Hurricane Katrina.

(2) PAYMENTS FOR PRIVATE HEALTH INSURANCE COVERAGE.—The Secretary shall make payments to State insurance commissioners for the purpose of making payments to health insurance issuers—

(A) on behalf of individuals that would otherwise qualify for DRM assistance from the State under section 6082 but for subsection (n) of such section for such individual's share of their health insurance premium; and

(B) on behalf of qualified employers for the employer share of their employee's health insurance premiums, but only with respect to the days on which the employer meets the definition under subsection (f).

(c) RULES FOR PAYMENTS TO PROVIDERS.—

(1) CONSULTATION.—In making payments to medical providers under subsection (b)(1), the Secretary shall consult with the Louisiana Department of Health and Hospitals, the Mississippi Department of Health, and the Alabama Department of Public Health in order to best identify the providers with the greatest need of such payments.

(2) PRIORITY.—In making payments to medical providers under subsection (b)(1), the Secretary shall give priority to community-based hospitals, physician practices, and other providers located in a direct impact parish or county where the health care infrastructure was destroyed or nearly destroyed.

(3) DESCRIPTION OF NEED AND HOW FUNDING WILL BE USED.—In order for a medical provider to be eligible for a payment under subsection (b)(1), the provider shall provide the Secretary with a description of the need for the funding and how the funding will be used.

(4) **TIMING FOR FIRST PAYMENT.**—The first payment to medicaid providers under subsection (b)(1) shall be made by not later than 10 days after the date of enactment of this Act.

(d) **RULES FOR PAYMENTS ON BEHALF OF INDIVIDUALS FOR PRIVATE HEALTH INSURANCE.**—

(1) **STREAMLINED ELIGIBILITY PROCESS.**—In making payments on behalf of individuals under subsection (b)(2)(A), the Secretary shall use the streamlined eligibility process under section 6082(c)(1).

(2) **NO PAYMENTS IF THE INDIVIDUAL IS RECEIVING DRM ASSISTANCE.**—No payments may be made on behalf of an individual under subsection (b)(2)(A) with respect to any period in which the individual is receiving DRM assistance from a State under section 6082.

(e) **MEDICAID PROVIDERS DESCRIBED.**—For purposes of subsection (b)(1), medicaid providers described in this subsection are—

(1) any provider under such title, including a supplier of medical assistance consisting of durable medical equipment (as defined in section 1861(n) of such Act (42 U.S.C. 1395x(n))), that, during a period after August 28, 2005, as determined by the Secretary—

(A) experiences a significant increase, as determined by the Secretary, in their patient caseload; or

(B) experiences a significant drop, as determined by the Secretary, in their patient caseload, including a provider that is temporarily closed during such period; and

(2) any other provider under such title, including such a supplier, determined appropriate by the Secretary.

(f) **QUALIFIED EMPLOYER DEFINED.**—For purposes of subsection (b)(2)(B), the term “qualified employer” means any employer—

(1) which conducted an active trade or business on August 28, 2005, in a direct impact parish or county; and

(2) with respect to which the trade or business described in paragraph (1)—

(A) is inoperable on any day during the DRM coverage period as a result of damage sustained in connection with Hurricane Katrina; or

(B) is not paying salary or benefits to employees on any day during the DRM coverage period as a result of damage sustained in connection with Hurricane Katrina.

(g) **EXPEDITING IMPLEMENTATION.**—The Secretary shall promulgate regulations to carry out this section which may be effective and final immediately on an interim basis as of the date of publication of the interim final regulation. If the Secretary provides for an interim final regulation, the Secretary shall provide for a period of public comments on such regulation after the date of publication. The Secretary may change or revise such regulation after completion of the period of public comment.

(h) **APPROPRIATION.**—Out of any money in the Treasury not otherwise appropriated, there is appropriated to the Fund \$800,000,000 for fiscal year 2005, to remain available until expended.

(i) **APPLICATION OF APPROPRIATIONS FUNDING PROVISIONS.**—Amounts provided in this section for making payments to medicaid providers under subsection (b)(1) shall be governed by the terms of division F of the Consolidated Appropriations Act, 2005 (Public Law 108-447, 118 Stat. 3112) (or succeeding appropriations measures for a fiscal year) that apply to funding for Grants to States for Medicaid under Title XIX of the Social Security Act.

#### **SEC. 6089. NONAPPLICATION OF CERTAIN PROVISIONS.**

Notwithstanding any other provision of this Act, this Act shall be applied without regard to subsections (a) and (b) of section 6032.

### **Subchapter B—TANF Relief**

#### **SEC. 6090. REIMBURSEMENT OF STATES FOR TANF BENEFITS PROVIDED TO ASSIST FAMILIES OF STATES AFFECTED BY HURRICANE KATRINA.**

(a) **IN GENERAL.**—Section 3 of the TANF Emergency Response and Recovery Act of 2005 is amended to read as follows:

##### **“SEC. 3. REIMBURSEMENT OF STATES FOR TANF BENEFITS PROVIDED TO ASSIST FAMILIES OF STATES AFFECTED BY HURRICANE KATRINA.**

“(a) **ELIGIBILITY FOR PAYMENTS FROM THE CONTINGENCY FUND.**—

“(1) **PERIOD OF APPLICABILITY.**—Beginning with August 29, 2005, and ending with September 30, 2006, a State described in paragraph (2) or (3) shall be considered a needy State for purposes of section 403(b) of the Social Security Act (42 U.S.C. 603(b)).

“(2) **DIRECT IMPACT STATES.**—A State described in this paragraph is Louisiana, Mississippi, or Alabama.

“(3) **OTHER STATES.**—

“(A) **IN GENERAL.**—A State is described in this paragraph if the State provides any benefit or service that may be provided under the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) to a family which—

“(i) has resided in a direct impact State described in paragraph (2);

“(ii) has travelled (not necessarily directly) to the State from such direct impact State as a result of Hurricane Katrina; and

“(iii) if applying for benefits or services on or after October 28, 2005, the State has determined is not receiving cash benefits from any program funded under such part of any other State.

“(B) **APPLICATION TO TERRITORIES.**—

“(i) **IN GENERAL.**—Notwithstanding section 403(b)(7) of the Social Security Act, a territory (as defined in section 1108(c)(1) of such Act (42 U.S.C. 1308(c)(1))) shall be considered to be a State described in this paragraph for purposes of this section.

“(ii) **DISREGARD OF PAYMENTS.**—Section 1108(a) of the Social Security Act (42 U.S.C. 1308(a)) shall be applied without regard to any amounts paid to a territory (as so defined) in accordance with this section.

“(b) **MONTHLY PAYMENTS.**—Notwithstanding paragraph (3)(C)(i) of subsection (b) of section 403 of the Social Security Act (42 U.S.C. 603), and in addition to any other amounts paid to a State under that subsection, the total amount paid during a month to a State under this section shall not exceed the following:

“(1) **DIRECT IMPACT STATES.**—In the case of a State described in subsection (a)(2), such amount shall not exceed,  $\frac{1}{4}$  of 20 percent of the State family assistance grant.

“(2) **OTHER STATES.**—In the case of a State described in subsection (a)(3), such amount shall not exceed the lesser of—

“(A) the total amount of Hurricane Katrina Emergency TANF Benefits (as defined in section 6(c)(1)) provided by the State to families described in subsection (a)(3); or

“(B)  $\frac{1}{4}$  of 20 percent of the State family assistance grant.

“(c) **NO STATE MATCH OR MAINTENANCE OF EFFORT REQUIRED.**—Sections 403(b)(6) and 409(a)(10) of the Social Security Act (42 U.S.C. 603(b)(6), 609(a)(10)) shall not apply with respect to a payment made to a State by reason of this section.

“(d) **INCREASE IN FUNDING TO THE EXTENT NECESSARY TO ENSURE THAT STATES WILL BE ABLE TO ACCESS THE CONTINGENCY FUND.**—For the period described in subsection (a)(1), paragraph (2) of subsection (b) of section 403 of the Social Security Act (42 U.S.C. 603) shall be applied without regard to the limitation on the total amount specified in such paragraph and funds appropriated pursuant

to such paragraph shall be available for payments authorized under this section and under such subsection (b).”.

(b) **RETROACTIVE EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect as if included in the enactment of the TANF Emergency Response and Recovery Act of 2005.

##### **SEC. 6091. INCREASE IN AMOUNT OF ADDITIONAL TANF FUNDS AVAILABLE FOR HURRICANE-DAMAGED STATES.**

(a) **IN GENERAL.**—Section 4 of the TANF Emergency Response and Recovery Act of 2005 is amended—

(1) in subsection (a)(2), by striking “20 percent” and inserting “40 percent”; and

(2) in subsection (b), in the matter preceding paragraph (1), by inserting “(at any time during or after the period described in section 3(a)(1))” after “may not be imposed”.

(b) **RETROACTIVE EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in the enactment of the TANF Emergency Response and Recovery Act of 2005.

##### **SEC. 6092. RULES FOR RECEIPT OF HURRICANE KATRINA EMERGENCY TANF BENEFITS AND APPLICATION TO CHILD SUPPORT REQUIREMENTS.**

(a) **IN GENERAL.**—Section 6 of the TANF Emergency Response and Recovery Act of 2005 is amended to read as follows:

##### **“SEC. 6. RULES FOR RECEIPT OF HURRICANE KATRINA EMERGENCY TANF BENEFITS AND APPLICATION TO CHILD SUPPORT REQUIREMENTS.**

“(a) **IN GENERAL.**—During the period described in section 3(a)(1), a State described in paragraph (2) or (3) of section 3(a) or an Indian tribe with a tribal family assistance plan approved under section 412 of the Social Security Act (42 U.S.C. 612) may provide Hurricane Katrina Emergency TANF Benefits under the State or tribal program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

“(b) **CERTAIN RULES WAIVED.**—

“(1) **IN GENERAL.**—Hurricane Katrina Emergency TANF Benefits shall not be considered assistance for purposes of sections 407, paragraphs (2), (3), or (7) of section 408(a), 411, or section 454(29) of the Social Security Act (42 U.S.C. 607, 608(a), 611, 654(29)).

“(2) **LIMITED WAIVER OF RULES UNDER SECTION 454(A)(I).**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), such benefits shall not be considered assistance for purposes of section 454(A)(i) of such Act (42 U.S.C. 654(A)(i)).

“(B) **EXCEPTION FOR FAMILIES ALREADY RECEIVING CHILD SUPPORT SERVICES OR WHO APPLY FOR SUCH SERVICES.**—Subparagraph (A) shall not apply with respect to such benefits that are provided to a family who—

“(i) at the time such benefits are provided, are receiving child support services under a State plan under section 454 of such Act (42 U.S.C. 654); or

“(ii) applies for child support services under such a State plan on behalf of a child who is receiving such benefits.

“(c) **HURRICANE KATRINA EMERGENCY TANF BENEFITS.**—

“(1) **IN GENERAL.**—In this section, the term ‘Hurricane Katrina Emergency TANF Benefits’ means any benefit or service that may be provided under a State or tribal program funded under part A of title IV of the Social Security Act to support families which the State or Indian tribe deems to be needy families based on their statement, circumstance, or inability to access resources and who—

“(A) are described in section 3(a)(3); or

“(B) subject to paragraph (2), reside in a State described in section 3(a)(2).

“(2) **LIMITATION.**—Any benefit or service provided under a State or tribal program funded under part A of title IV of the Social

Security Act in a State described in section 3(a)(2) to a family who the State or Indian tribe deems to be a needy family in accordance with paragraph (1), shall only be considered to be a Hurricane Katrina Emergency TANF Benefit if the State or Indian tribe designates that the benefit or service is to be treated as a Hurricane Katrina Emergency TANF Benefit.

“(d) SIMPLIFIED DATA REPORTING.—

“(1) IN GENERAL.—Each State or Indian tribe which provides Hurricane Katrina Emergency TANF Benefits shall report to the Secretary of Health and Human Services on a monthly basis the following information:

“(A) The total amount of expenditures attributable to providing Hurricane Katrina Emergency TANF Benefits.

“(B) The total number of families receiving such benefits.

“(C) To the extent the State determines it is able to do so, the total amount of such benefits provided that are—

“(i) cash;

“(ii) child care; or

“(iii) other benefits and services.

“(2) REPORTS TO CONGRESS.—The Secretary of Health and Human Services shall submit, on a monthly basis, a compilation of the reports submitted in accordance with paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.”.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the TANF Emergency Response and Recovery Act of 2005.

#### Subchapter C—Miscellaneous Provisions

##### SEC. 6093. DISCLOSURE BASED ON VALID AUTHORIZATION.

(a) IN GENERAL.—Section 223(d)(5) of the Social Security Act (42 U.S.C. 423(d)(5)) is amended by adding at the end the following:

“(C) Notwithstanding any other provision of law, if the Commissioner of Social Security provides to a custodian of records a copy, facsimile, or electronic version of an authorization obtained from the individual to disclose records to the Commissioner, then such custodian shall not be held liable under any applicable Federal or State law for disclosing any record or other information in response to such request, on the basis that the authorization relied upon was a copy, facsimile, or electronic version of the authorization.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to disclosures of records or other information made on or after the date of enactment of this Act.

##### SEC. 6094. EMERGENCY PROCUREMENT AUTHORITY IN SUPPORT OF HURRICANE KATRINA RESCUE AND RELIEF EFFORTS.

(a) SMALL BUSINESS RESERVATION OFFSET.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended by adding at the end the following:

“(4) For any contracts involving the use of the special emergency procurement authority under section 32A(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428a(c)), the dollar ceiling of the small business reservation established in paragraph (1) shall be adjusted to match the applicable amount of the simplified acquisition threshold.”.

(b) RETENTION OF SMALL BUSINESS SUBCONTRACTING.—Section 8(d)(4)(D) of the Small Business Act (15 U.S.C. 637(d)(4)(D)) is amended—

(1) by striking “(D) No contract” and inserting the following:

“(D) SMALL BUSINESS PARTICIPATION.—

“(i) IN GENERAL.—No contract”; and

(2) by adding at the end the following:

“(ii) EMERGENCY PROCUREMENTS.—

“(I) IN GENERAL.—For any contract which otherwise meets the requirements of this subsection, and which involves the use of special emergency procurement authority under section 32A(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428a(c)), the subcontracting plan required under this subsection shall be negotiated as soon as is practicable, but not later than 30 days after the date on which the contract is awarded.

“(II) PAYMENT.—Not greater than 50 percent of the amounts due under any contract described in subclause (I) may be paid, unless a subcontracting plan compliant with this subsection is negotiated by the contractor.”.

(c) LIMITATIONS ON INCREASED MICRO-PURCHASE THRESHOLD.—Notwithstanding any other provision of law, the authority granted under section 101 of the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-62), including the modifications under subsection (d), shall—

(1) be restricted to use solely within the geographic areas designated by the President as disaster areas due to Hurricane Katrina;

(2) not be exercised in a manner inconsistent with any Federal law providing for local preference in disaster relief and recovery contracting; and

(3) terminate 120 days after the date of enactment of this Act.

(d) MODIFIED THRESHOLD.—Notwithstanding section 101(2) of the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-62), the amount specified in subsections (c), (d), and (f) of the section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) for purchases necessary for support of Hurricane Katrina rescue and relief operations shall be \$50,000, or such an amount in excess of \$50,000, but not to exceed \$250,000, as may be approved by the head of the executive agency concerned (or any delegate of the head of such executive agency, who shall be an officer or employee of such executive agency who is a warranted contracting officer for making Federal acquisitions).

(e) OMB GUIDANCE ON USE OF GOVERNMENT CREDIT CARDS FOR MICRO-PURCHASES.—

(1) GUIDANCE REQUIRED.—Not later than 14 calendar days after the date of enactment of this Act, the Director of the Office of Management and Budget shall issue clear and concise guidance regarding the use of Government credit cards by Federal agencies to make micro-purchases under subsections (c), (d), and (f) of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428), as modified by this section.

(2) ELEMENTS.—The guidance under paragraph (1) shall include—

(A) a list of Government officials with the authority to approve purchases under subsection (d) in amounts in excess of \$50,000, designated by agency, title, and pay grade;

(B) the number of credit cards, by agency, that may be utilized for purchases under subsection (d) in amounts in excess of \$50,000;

(C) procedures for the immediate review of any purchase under subsection (d) in an amount in excess of \$50,000 that was not approved by an official specified in that paragraph as required by that paragraph;

(D) procedures for the audit of all purchases made on Government credit cards after the expiration of subsection (d) under subsection (c); and

(E) procedures to ensure that such purchases are made with small business concerns and local small business concerns, to

the maximum extent practicable under the circumstances.

(3) REPORTS ON PURCHASES.—Not later than 180 days after the date of the enactment of this Act, the head of each executive agency making any purchase under subsection (d) in an amount in excess of \$50,000 shall submit to the appropriate Congressional committees a report on each such purchase made by such agency, including—

(A) a description of the property or services so purchased;

(B) a statement of the purpose of such purchase;

(C) a statement of the amount of such purchase;

(D) a statement of the name, title, and pay grade of the officer or employee of such agency making such purchase; and

(E) whether such purchases were made with small business concerns.

(4) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this subsection, the term “appropriate Congressional committees” means—

(A) the Committees on Appropriations, Small Business and Entrepreneurship, Finance, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Appropriations, Small Business, and Government Reform of the House of Representatives.

##### SEC. 6095. TRANSFER OF FUNDS.

Notwithstanding any other provision of law, of the amounts made available to the Department of Homeland Security under the heading “Disaster Relief” under the heading “Emergency Preparedness and Response” of Public Law 109-62 (119 Stat. 1991), such sums as are necessary to carry out this chapter shall—

(1) be made available to the Secretary to carry out this chapter;

(2) be used by the Secretary to carry out this chapter; and

(3) remain available until expended.

**SA 2357.** Mr. NELSON of Florida (for himself, Mr. KERRY, Ms. CANTWELL, Mrs. MURRAY, Mr. REID, and Mr. KENNEDY) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 268, between lines 10 and 11, insert the following:

(d) PREMIUM TRANSITION RULE.—

(1) 2006.—

(A) PREMIUM.—Nothing in this section shall be construed as modifying the premium previously computed under section 1839 of the Social Security Act (42 U.S.C. 1395r) for months in 2006.

(B) GOVERNMENT CONTRIBUTION.—In computing the amount of the Government contribution under section 1844(a) of the Social Security Act (42 U.S.C. 1395w(a)) for months in 2006, the Secretary of Health and Human Services shall compute and apply a new actuarially adequate rate per enrollee age 65 and over under section 1839(a)(1) of such Act (42 U.S.C. 1395r(a)(1)) taking into account the provisions of this section.

(2) 2007.—

(A) PREMIUM.—The monthly premium under section 1839 of the Social Security Act (42 U.S.C. 1395r) for months in 2007 shall be computed as if this section had not been enacted.

(B) GOVERNMENT CONTRIBUTION.—The Government contribution under section 1844(a) of the Social Security Act (42 U.S.C. 1395w(a)) for months in 2007 shall be computed taking into account the provisions of this section, including subparagraph (A).

(e) EXTENSION OF PRESCRIPTION DRUG DISCOUNTS TO ENROLLEES OF MEDICAID MANAGED CARE ORGANIZATIONS.—

(1) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(A) in clause (xi), by striking “and” at the end;

(B) in clause (xii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(xiii) such contract provides that payment for covered outpatient drugs dispensed to individuals eligible for medical assistance who are enrolled with the entity shall be subject to the same rebate agreement entered into under section 1927 as the State is subject to and that the State shall have the option of collecting rebates for the dispensing of such drugs by the entity directly from manufacturers or allowing the entity to collect such rebates from manufacturers in exchange for a reduction in the prepaid payments made to the entity for the enrollment of such individuals.”.

(2) CONFORMING AMENDMENT.—Section 1927(j)(1) (42 U.S.C. 1396r-8(j)(1)) is amended by inserting “other than for purposes of collection of rebates for the dispensing of such drugs in accordance with the provisions of a contract under section 1903(m) that meets the requirements of paragraph (2)(A)(xiii) of that section” before the period.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on the date of enactment of this Act and apply to rebate agreements entered into or renewed under section 1927 of the Social Security Act (42 U.S.C. 1396r-8) on or after such date.

## NOTICES OF HEARINGS/MEETINGS

### COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. INHOFE. Mr. President, I would like to announce that the Committee on Environment and Public Works will hold a hearing on November 2 at 9:30 a.m. to receive testimony on the response to Hurricane Katrina.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a joint hearing has been scheduled before the Committee on Energy and Natural Resources and the Committee on Commerce, Science and Transportation.

The hearing will be held on Wednesday, November 9, 2005, at 9:30 a.m. in Room SD-106 of the Dirksen Senate Office Building.

The purpose of this hearing is to receive testimony regarding energy pricing and profits.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510-6150.

For further information, please contact Lisa Epifani 202-224-5269 or Shannon Ewan at 202-224-7555.

## AUTHORITIES FOR COMMITTEES TO MEET

### COMMITTEE ON ARMED SERVICES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on

Armed Services be authorized to meet during the session of the Senate on November 1, 2005, at 9:30 a.m. in closed session to receive a briefing to provide an update on the progress of the joint improvised explosive devices (IED) Task Force.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday, November 1, at 10 a.m., on the nominations of Shana Dale, to be Deputy Administrator, National Aeronautics and Space Administration, Mark Rosenker, to be Member, National Transportation Safety Board, and Kathryn Higgins, to be Member, of the National Transportation Safety Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 1, 2005, at 2:15 p.m. to hold a Business Meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

### COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on “Judicial and Executive Nominations” on Tuesday, November 1, 2005 at 2:30 p.m. in the Dirksen Senate Office Building Room 226.

### Witness List:

Panel I: The Honorable Ted Stevens United States Senator, R-AK; and The Honorable Mitch McConnell United States Senator, R-KY.

Panel II: Erick Nicholas Vitaliano to be United States District Judge for the Eastern District of New York; Gregory F. Van Tatenhove to be United States District Judge for the Eastern District of Kentucky; Joseph Frank Bianco to be United States District Court Judge for the Eastern District of New York; and Timothy Mark Burgess to be United States District Judge for the District of Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

### SUBCOMMITTEE ON NATIONAL PARKS

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on National Parks be authorized to meet during the session of the Senate on Tuesday, November 1 at 10 a.m. The purpose of the hearing is to receive testimony on the National Park Service's draft management policies, including potential impact of the policies on park operations, park resources, interaction with gateway communities, and solicitation and collection of donations.

The PRESIDING OFFICER. Without objection, it is so ordered.

## PRIVILEGES OF THE FLOOR

Mr. GREGG. Mr. President I ask unanimous consent that Glenn Kaminsky, a legislative fellow in the offices of Senator LIEBERMAN, be granted the privilege of the floor during consideration of S. 1932.

The PRESIDING OFFICER. Without objection, it is so ordered.

## DEFICIT REDUCTION OMNIBUS RECONCILIATION ACT OF 2005—Continued

### MODIFICATIONS TO AMENDMENT NO. 2352

Mr. GREGG. Mr. President, I ask unanimous consent that the Enzi amendment No. 2352 be modified with the changes at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modifications are as follows:

of the Higher Education Act of 1965 (as amended by this Act) (20 U.S.C. 1087e(c)), the second sentence of such subsection shall be applied by substituting “2.0 percent” for “2.5 percent” with respect to loans for which the first disbursement of principal is made on or after July 1, 2007.

(c) REPEAL OF ORIGATION FEES.—

(1) AMENDMENTS.—Sections 438(c) and 455(c) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(c), 1087e(c)) are repealed.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on July 1, 2011.

(d) NONAPPLICABILITY OF SUNSET PROVISION.—Section 7959 shall not apply to this section or to the amendments made by this section.

### SEC. 7958. AUTHORIZATION AND APPROPRIATION OF FUNDS.

There are authorized to be appropriated, and there are appropriated, out of any money in the Treasury not otherwise appropriated, \$1,660,000,000 to carry out this subtitle, of which—

(1) \$450,000,000 shall be available to carry out section 7952;

(2) \$10,000,000 shall be available to carry out section 7955; and

(3) \$1,200,000,000 shall be available to carry out section 7956.

Mr. JOHNSON. Mr. President, I have recently received a very powerful and thoughtful letter from the Presiding Bishop of the Evangelical Lutheran Church in America, ELCA, of which I am a member. While my religious faith is central to the values which inform my political decisions, these decisions are never based exclusively on direction I might receive from my religious denomination's leaders.

Nonetheless, in this instance I believe that this letter, signed by all 66 ELCA bishops, sends the Senate a profoundly important and timely message concerning the budget reconciliation bill currently before this body.

I ask unanimous consent that this letter be printed in the RECORD, and I urge all my colleagues to take this message of Christian compassion and values to heart.

There being no objection, the material was ordered to be printed in the RECORD, as follows: